

HISTORIC FILL

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This document is part of an exploration and discussion of possible approaches to addressing Historic Fill in Massachusetts and is NOT a MassDEP proposal.

HISTORIC FILL – Current Approach

- Some sites never come into the MCP, applying notification exemption at 40.0317(9).
 - Decision that exemption applies may not be made by an LSP
 - Decision that exemption applies is not auditable
 - No documentation is in the public record
 - Firms with a more “liberal” interpretation have competitive advantage
- Notified sites use background definition (40.0006) to declare No Significant Risk pursuant to 40.0902(3)
 - Site may receive A-1 RAO, despite potential risk associated with fill material
 - Contaminants associated with fill drop out of risk assessment

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Historic Fill Proposal - Concept

Sites having contamination consistent with Historic Fill (i.e., pursuant to a specific definition), and having no other point source(s) of contamination would be able to achieve an ENDPOINT for the property evaluated.

Criteria

- Historic Fill is the sole source of the release
- Contaminants that are characteristic of historic fill
- Release cannot be attributed to any other known point source
- Notification has been made to MassDEP
- All response actions performed to date have been performed in compliance with MCP
- Imminent Hazards have been eliminated
- Sensitive exposures have been eliminated
- Any discrete releases that do not meet the definition of Historic Fill must be managed under the MCP

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Performance Standards

- Sufficient assessment and investigative actions to support a conclusion that historic fill is the sole source of the contamination
- Investigation of conditions associated with historic fill may be limited to the property being investigated
- **Documentation would be commensurate with the size, nature and complexity of the issue under investigation.**

Effect of Achieving ENDPOINT¹

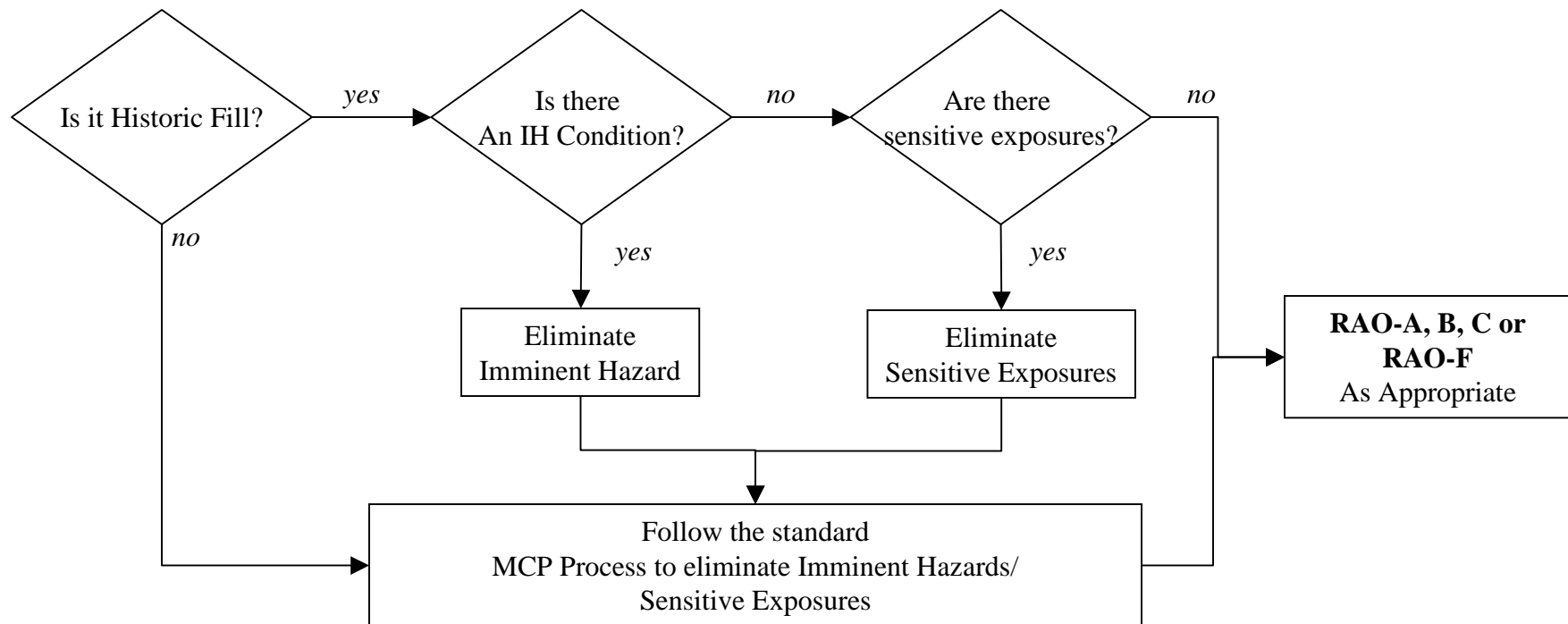
- Depending on Endpoint, it may or may not be considered “No Significant Risk” but would indicate no further response action was necessary
- Notification exemption for fill-related material would be eliminated, leveling the playing field
- Would allow distinction between “background” (natural) and anthropogenic release conditions

¹ – The term “ENDPOINT” is used throughout as a placeholder for “some clear regulatory endpoint” which could be an RAO-F, FPS or Class A-5/B-4 RAO

Effect of Achieving ENDPOINT

- Timelines would not change from current MCP timelines.
- Historic Fill determinations could be reviewed by DEP
- RAO/FPS may be achieved at any point in the process – it could be a Quick In/Quick Out
- Historic Fill determinations would be available for public review

Historic Fill Sites: Straw-man Proposal 1



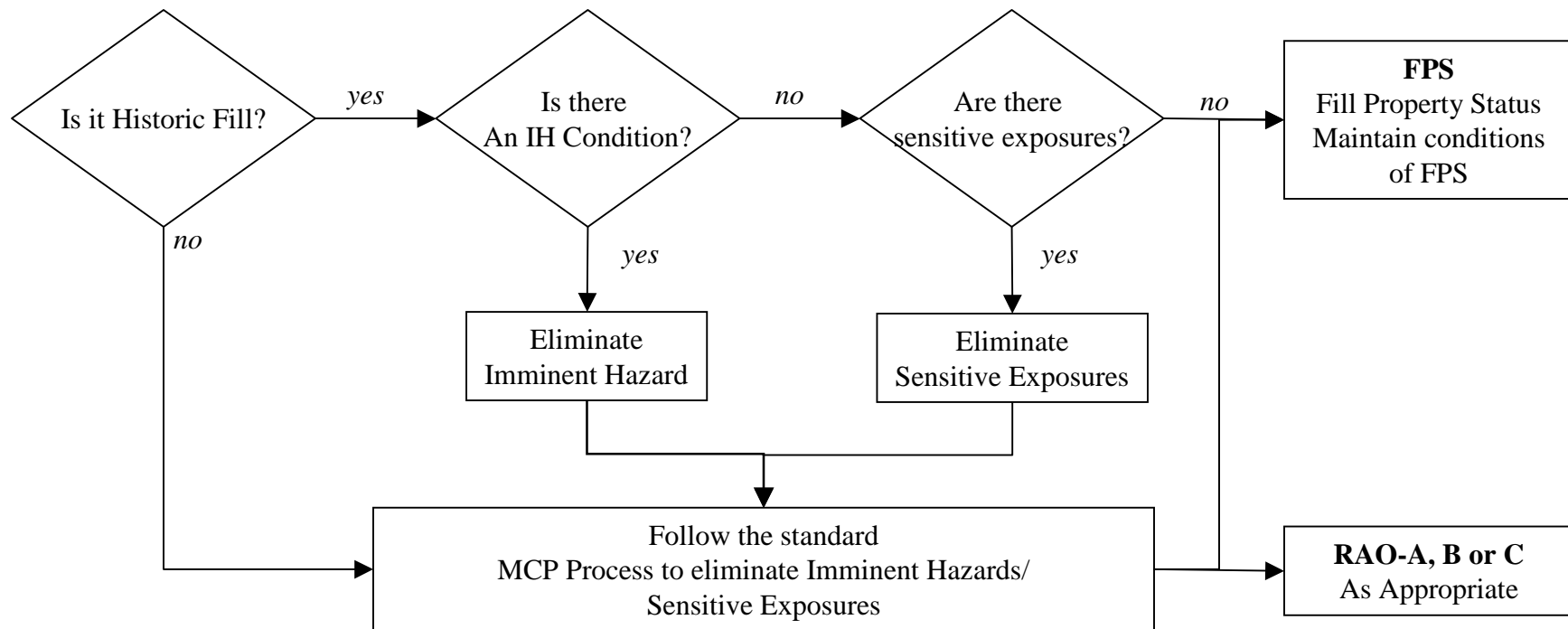
Timeline: 1 year following notification, there must be a Tier Classification, DPS, or RAO.

** Discrete releases of OHM that do not meet definition of Historic Fill must be managed under MCP*

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Historic Fill Sites: Straw-man Proposal 2



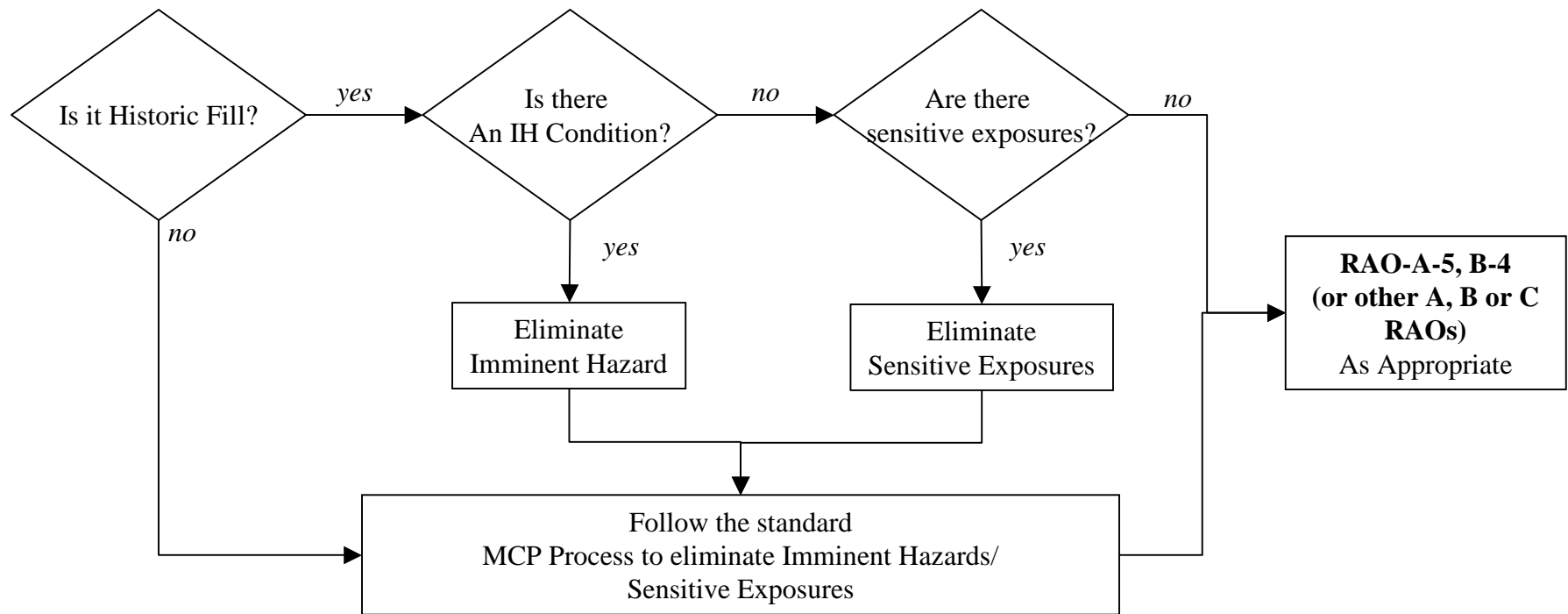
Timeline: 1 year following notification, there must be a Tier Classification, FPS, DPS, or RAO.

** Discrete releases of OHM that do not meet definition of Historic Fill must be managed under MCP*

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Historic Fill Sites: Straw-man Proposal 3



Timeline: 1 year following notification, there must be a Tier Classification, DPS, or RAO.

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